

PT 01-31

Tax Type: Property Tax

Issue: Religious Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS**

**THE STONE CHURCH,
APPLICANT**

v.

**ILLINOIS DEPARTMENT
OF REVENUE**

**No. 00-PT-0061
(99-16-0760)
P.I.N: 24-29-302-027**

RECOMMENDATION FOR DISPOSITION

SYNOPSIS: This matter presents the limited issue of whether real estate identified by Cook County Parcel Index Number 24-29-302-027 (hereinafter the “subject property”) was “used exclusively for religious purposes,” as required by Section 15-40 of the Property Tax Code (35 ILCS 200/1-1, *et seq.*) during the 1999 assessment year. The underlying controversy arises as follows:

The Stone Church (hereinafter the “applicant”) filed a Real Estate Tax Exemption Complaint with the Cook County Board of Review (hereinafter the “Board”) on November 18, 1999. The Board reviewed applicant’s complaint and recommended to the Illinois Department of Revenue (hereinafter the “Department”) that the requested exemption be granted. On August 10, 2000, the Department issued a determination finding that subject property was not in exempt use.

Applicant filed an appeal as to this denial and later presented evidence at a formal evidentiary hearing. Following a careful review of the record made at that hearing, I recommend that the Department's determination in this matter be reversed.

FINDINGS OF FACT:

1. The Department's jurisdiction over this matter and its position therein are established by Dept Ex. Nos. 1, 2, 4.
2. The Department's position in this case is that the subject property is not in exempt use. Dept. Ex. No. 4.
3. Applicant, a Christian church, obtained ownership of the subject property by means of a special warranty deed dated December 23, 1998. Applicant Ex. Nos. 1, 2, 3, 4.
4. The subject property is located at 12659 S. Ridgeland, Palos Heights, IL and is part of a larger complex that contains applicant's main church and other facilities ancillary thereto. Dept. Ex. No. 3; Tr. pp. 8-11.
5. Applicant's church complex is configured as follows:

24-29-302-004 -Youth Parsonage		
Unrelated Properties Not At Issue In This Case		
24-29-302-031 - Parking Area	24-29-302-032 - Parking Area	
24-29-302-017 - Parking Area	Church Facility 24-29-302-015	Child Care Facility 24-29-302-016
24-29-302-028 - Parking Area		
29-302-027 Subject Property		

Dept. Ex. No. 3.

6. All portions of the larger church complex except the subject property were exempt from real estate taxation throughout the 1999 assessment year. Applicant Group Ex. No. 6.
7. The subject property had been vacant for a number of years at the time of purchase. It was, however, improved with dilapidated, unused gas station and car wash buildings. Applicant Ex. No. 5-C. Tr. p. 14.
8. Applicant begin removing garbage, trimming bushes, fixing broken windows and making other necessary repairs to the subject property immediately after purchasing it. Applicant then began storing file cabinets, maintenance tools, sporting equipment and other church-related paraphernalia in the gas station and car wash buildings after it made these repairs. Tr. pp. 16-17.
9. Applicant actively used the gas station and car wash for storage-related purposes throughout most of the 1999 assessment year. Applicant did, however, raze these improvements and clear off the resulting debris in December of 1999 so that it could use the subject property for overflow parking. *Id.*

CONCLUSIONS OF LAW:

An examination of the record establishes that this applicant has demonstrated by the presentation of testimony or through exhibits or argument, evidence sufficient to warrant exempting the subject property from 1999 real estate taxes under Section 15-40 of the Property Tax Code, 35 ILCS 200/1-1, *et seq.* Accordingly, under the reasoning given below, the determination by the Department that said property does not qualify for such exemption under Section 15-40 should be reversed. In support thereof, I make the following conclusions:

Article IX, Section 6 of the Illinois Constitution of 1970 provides as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Pursuant to Constitutional authority, the General Assembly enacted Sections 15-40 and 15-125 of the Property Tax Code, 35 **ILCS** 200/1-1 *et seq.*, (hereinafter the “Code”), wherein the following are exempted from real estate taxation:

200/15-40. Religious purposes, orphanages, or school and religious purposes

§ 15-40. All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise use with a view to a profit ...[.]

35 **ILCS** 200/15-40.

200/15-125. Parking areas

§ 15-125. Parking areas, not leased or used for profit, when used as part of a use for which an exemption is provided by this Code and owned by any school district, non-profit hospital, or religious or charitable institutions which meets the qualifications for exemption ...[.]

35 **ILCS** 200/15-125.

Statutes conferring property tax exemptions are to be strictly construed so that all factual and legal inferences favor of taxation. People ex rel. Nordland v. Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987). Consequently, any doubts or debatable questions as to whether property falls within a given statutory exemption provision must be resolved in favor of taxation. *Id.*

In this case, the relevant statute requires that the property in question be “used exclusively for religious purposes.” 35 ILCS 200/15-40. The word “exclusively” when used in Section 200/15-40 and other property tax exemption statutes means the “the primary purpose for which property is used and not any secondary or incidental purpose.” Pontiac Lodge No. 294, A.F. and A.M. v. Department of Revenue, 243 Ill. App.3d 186 (4th Dist. 1993). As applied to the uses of property, a religious purpose means “a use of such property by a religious society or persons as a stated place for public worship, Sunday schools and religious instruction.” People ex rel. McCullough v. Deutsche Evangelisch Lutherisch Jehova Gemeinde Ungeanderter Augsburgischer Confession, 249 Ill. 132, 136-137 (1911).

Applicant did not actually perform any worship services or conduct any type of religious instruction on the subject property during the 1999 assessment year. It did nevertheless store church-related paraphernalia in the two building improvements situated thereon throughout most of that period. Storage facilities are subject to exemption from real estate taxation, provided that applicant’s use thereof is “reasonably necessary” to facilitate another specifically identifiable exempt use. Evangelical Hospitals Corporation v. Department of Revenue, 233 Ill. App.3d 225 (2nd Dist. 1991).

The subject property was part and parcel of an otherwise tax-exempt complex, that included applicant’s main church and other related facilities, in 1999. Inasmuch as the storage facilities located on the subject property strictly served the needs of that complex, I conclude that the subject property was in exempt use throughout those portions of the 1999 tax year wherein applicant was using said property for storage purposes. *Accord*, Evangelical Hospitals Corporation v. Department of Revenue, *supra*.

Applicant ceased using the subject property for storage when it demolished the building improvements situated thereon in December of 1999. Such demolition also constituted an exempt use, for it marked the beginning of the process whereby applicant began actively adapting and developing the subject property for use as an overflow parking area for its church complex. *Accord*, Weslin Properties v. Department of Revenue, 157 Ill. App.3d 580 (2nd Dist. 1987); Lutheran Church of the Good Shepherd of Bourbonnais v. Illinois Department Of Revenue, 316 Ill. App.3d 828, 834 (3rd Dist., 2000); Northwestern Memorial Foundation v. Johnson, 141 Ill. App.3d 309 (1st Dist. 1986). Therefore, the Department's determination in this matter, which appears to have been based on a lack of information that applicant cured at hearing, should be reversed.

WHEREFORE, for all the aforementioned reasons, it is my recommendation that the real estate identified by Cook County Parcel Index Number 24-29-302-027 be exempt from 1999 real estate taxes under Section 15-40 of the Property Tax Code.

June 21, 2001

Date

Alan I. Marcus
Administrative Law Judge